

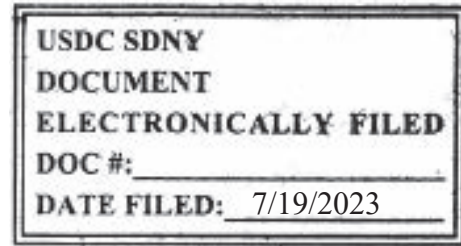
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEZIGN NA, LLC and JEREMY KEITH
RITTER,

Plaintiffs,

-v.-

SEAMLESS CAPITAL GROUP LLC,
UNITED FUND USA, LLC, LIBERTAS
FUNDING, LLC, CLOUDFUND LLC,
MEGED FUNDING GROUP CORP., and
JOHN and JANE DOE DEFENDANTS,
Defendants.



22 Civ. 10098 (JHR)

ORDER

JENNIFER H. REARDEN, District Judge:

On December 29, 2022, Plaintiffs moved for a temporary restraining order and preliminary injunction as to Defendant Seamless Capital Group LLC (“Seamless”). ECF No. 6. Plaintiffs’ motion was scheduled to be heard on January 5, 2023. ECF No. 9. On January 5, 2023, at the parties’ request, the hearing on the temporary restraining order was adjourned to January 17, 2023, on the ground that the parties were negotiating a resolution that “would not only obviate the need for a show cause hearing/TRO but would also resolve the substantive claims between these parties.” ECF No. 17. On January 9, 2023, Defendant Meged Funding Group Corp. (“Meged”) moved to compel Plaintiffs to arbitrate and to stay the action as to that Defendant. ECF No. 18.

On January 13, 2023, the Court ordered Plaintiffs and Seamless to file a joint letter by January 20, 2023, updating the Court on the status of the parties’ settlement negotiations. ECF No. 21. The Court also ordered Plaintiffs to file by January 27, 2023 any opposition to Meged’s motion to stay and compel arbitration. *Id.* Plaintiffs did not respond to the January 13, 2023 Order.

On March 31, 2023, the Court ordered Plaintiffs, by April 19, 2023, to file a letter informing the Court whether they sought to withdraw their motion for a temporary restraining order. ECF No. 22. The Court also admonished Plaintiffs that unless they demonstrated good cause for their failure to timely respond to Meged’s motion to stay and compel arbitration by that date, the Court would treat that motion as fully submitted. *Id.* In addition, the Court cautioned Plaintiffs that, absent any communication from them by April 12, 2023 demonstrating service on Defendants United Fund USA, LLC, Libertas Funding, LLC, or Cloudfund LLC, the Court might dismiss the claims against those Defendants without further notice. *Id.*

On April 3, 2023, Seamless informed the Court that it had not communicated with Plaintiffs since late January 2023, and that it did not know whether Plaintiffs continued to seek a

TRO or whether they would even prosecute this case. ECF No. 23.¹ Plaintiffs did not respond to the Court's March 31, 2023 Order.

As no opposition has been filed, Meged's motion to stay and compel arbitration (ECF No. 18) is decided on default. For the reasons stated in Meged's memorandum of law in support of the motion, which are supported by the record and have not been controverted by Plaintiffs, the motion to stay and compel arbitration is GRANTED. Plaintiffs' claims as to Meged shall be stayed pending arbitration. Within 14 days of the conclusion of the arbitration proceedings, the parties shall file a joint letter-motion updating the Court. Should this action be closed by that date, the parties shall request that the Court reopen the case.


Absent a showing of good cause by Plaintiffs for their failure to comply with the Court's orders, by **August 8, 2023**, Plaintiffs' claims (and Plaintiffs' motion for injunctive relief at ECF No. 6) as to all other Defendants, including Seamless, will be dismissed for failure to prosecute this action.

Plaintiffs are directed to notify attorneys for Defendants United Fund USA, LLC, Libertas Funding, LLC, and Cloudfund LLC by serving upon each of them a copy of this Order. If Plaintiffs are unaware of the identity of counsel for any Defendant, Plaintiffs must forthwith send a copy of this Order to that party personally. Proof that Plaintiffs provided such notice must be filed on ECF by **one week of the date of this Order**.

The Clerk of Court is directed to terminate ECF No. 18.

SO ORDERED.

Dated: July 19, 2023
New York, New York


JENNIFER H. REARDEN
United States District Judge

¹ In the March 31, 2023 Order, the Court ordered Seamless to respond to the Complaint by April 19, 2023, if the parties failed to reach a settlement by that date. ECF No. 22. Seamless asserts that it was never properly served in this action and requests that the Court postpone its deadline to respond to the Complaint until after Plaintiffs have addressed that issue. ECF No. 23. As it does not appear that Plaintiffs intend to prosecute this action, Seamless's deadline to respond to the Complaint is adjourned *sine die*.